

Attachment C

Planning Commission
Resolution No. PC2020-026

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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A FOURTH AMENDMENT TO THE HOAG MEMORIAL HOSPITAL PRESBYTERIAN DEVELOPMENT AGREEMENT (DA2020-003) FOR THE PROPERTY LOCATED AT 1 HOAG DRIVE (PA2020-065)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On February 14, 1994, the City Council of the City of Newport Beach ("City") adopted Ordinance No. 94-8 approving Restated Development Agreement No. 5 ("Agreement") between the City and Hoag Memorial Hospital Presbyterian ("Hoag"). Ordinance No. 94-8 went into effect on March 16, 1994. The Agreement was executed and recorded, as document number 94-0207276, on March 23, 1994. The term of the Agreement was twenty-five (25) years.
2. On May 13, 2008, the City Council adopted Ordinance No. 2008-10 approving an amendment to the Development Agreement ("Amendment") that went into effect on June 12, 2008. The Amendment was executed and recorded, as document number 2008000289321, on June 17, 2008.
3. On March 12, 2019, the City Council adopted Ordinance No. 2019-6 approving a second amendment to the Agreement ("Second Amendment") that went into effect on April 11, 2019. The Second Amendment was executed and recorded, as document number 2019000188999, on June 3, 2019. The Second Amendment to the Agreement extended the Term of the Agreement for an additional six (6) months.
4. On July 23, 2019, the City Council adopted Ordinance No. 2019-12 approving a third amendment to the Agreement ("Third Amendment") that went into effect on August 22, 2019. The Third Amendment was executed and recorded, as document number 2019000318392, on August 27, 2019. The Third Amendment extended the Term of the Agreement for an additional ten (10) years in exchange for certain community public benefits provided by Hoag. The existing development regulations and required mitigation measures as provided in the Agreement and subsequent amendments remained unchanged by the Third Amendment.
5. Hoag has requested a fourth amendment to extend the Term of the Agreement an additional one (1) year in light of COVID-19-related impacts that have constrained the ability to plan for the development allowed by the Agreement as amended ("Fourth Amendment"). The existing development regulations and required mitigation measures as provided in the Agreement and subsequent amendments remain unchanged by this Fourth Amendment.
6. Section 15.45.040 (Development Agreements) of the Newport Beach Municipal Code ("NBMC") requires that development agreements include the term, permitted uses, density and intensity of development, maximum height and size of proposed buildings, and

provisions for reservation or dedication of land for public purposes. The Fourth Amendment meets the requirements of Section 15.45.040 (Development Agreements) of the NBMC. The Agreement, as amended, includes the permitted uses, density and intensity of development, maximum height and size of the proposed buildings and provisions for reservation or dedication of land for public purposes. None of those provisions are changed by this Fourth Amendment. This Fourth Amendment exclusively requests a one (1) year extension of the Term of the Agreement.

7. The Planning Commission held a telephonic public hearing on July 9, 2020, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19, at which time the Planning Commission considered the Fourth Amendment. A notice of time, place, and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), California Government Code Section 65867 and Section 15.45.050 (Public Hearing-Notice) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at the hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

In accordance with the California Environmental Quality Act ("CEQA") set forth in the California Public Resources Code Section 21000, *et seq.* and its implementing State regulations set forth in the California Code of Regulations, Title 14, Division 6, Chapter 3 ("CEQA Guidelines"):

1. On May 11, 1992, the Newport Beach City Council certified Final Environmental Impact Report ("FEIR") and Supplemental Environmental Report ("SEIR") No. 142 (SCH No. 1992101159) that addressed the potential environmental effects associated with the Hoag Hospital Master Plan development program ("Project").
2. On April 16, 2008, the City Council certified a Supplemental FEIR (SCH No. 1991071003) ("FEIR") in accordance with Public Resources Code Section 21000, *et seq.* and the State CEQA Guidelines to analyze the potential impacts of the proposed changes to the Hoag Hospital Master Plan development program pursuant to Resolution No. 2008-27. The FEIR and SEIR are incorporated herein by this reference.
3. All significant environmental concerns for the Project are addressed in previously certified FEIR and SEIR No. 142. The Fourth Amendment does not change the Project but rather only extends the Term of the Agreement by two (2) years to account for COVID-19 related impacts. The Fourth Amendment does not amend any development standards, development requirements, or required mitigation measures identified in FEIR No. 142 and the SEIR.

The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, Project opponents often seek an award of attorneys' fees in such challenges. As Project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. The Planning Commission finds the Fourth Amendment is consistent with the City of Newport Beach General Plan Policy LU 6.1 and Strategy 6.1.5 by supporting Hoag in its mission to provide adequate facilities to meet the needs of area residents and by working with Hoag to ensure that future development plans consider its relationship to and assure compatibility with adjoining residential neighborhoods and mitigate impacts on local and regional transportation systems. The Agreement and subsequent amendments provide appropriate development assurances to Hoag to plan for the future while also providing appropriate safeguards to protect the community. The COVID-19 crisis has interrupted and delayed Hoag's ability to plan for the development authorized by the Agreement as amended. Extending the term of the Agreement, as amended, by two (2) years furthers the LU 6.1 and Strategy 6.1.5 priorities by allowing Hoag additional time to properly plan once the COVID-19 outbreak has been suppressed.
2. The City Council previously found the Agreement and subsequent amendments consistent with Section 15.45.040 (Contents) of the NBMC as it included all the necessary components including the term, permitted uses, density and intensity of development, maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes when it adopted Ordinance 2008-10 in 2008. With the exception of the Term, all of the other necessary components articulated above, remain unchanged by this Fourth Amendment.
3. The Planning Commission finds the Fourth Amendment is consistent with provisions of California Government Code Sections 65864 to 65869.5 and Chapter 15.45 (Development Agreements) of the NBMC that authorize binding agreements that: (i) encourage investment in, and commitment to, comprehensive planning and public facilities financing; (ii) strengthen the public planning process and encourage private implementation of the local general plan; (iii) provide certainty in the approval of projects in order to avoid waste of time and resources; and (iv) reduce the economic costs of development by providing assurance to the property owners that they may proceed with projects consistent with existing policies, rules, and regulations. COVID-19 has put a strain on the healthcare system and demands Hoag's full attention as a regional provider treating those sick with the virus. Temporary closures in the development industry resulting from COVID-19 have also effectively reduced the time Hoag has to act on the by-right development provisions of the Term. If the two (2) year extension is not granted, Hoag might divert its attention from COVID-19 to plan for future development. They might also incur increased development costs and needless expenditure of time and resources because long-term development plans would need to be reconstituted under a tighter future timeframe. Hoag intends to exercise the development assurances of the Term completely to invest vital healthcare infrastructure in the community, and needs two (2s) additional year to account for the unforeseeable complications from COVID-19.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach, California hereby recommends to the City Council:

1. All significant environmental concerns for the Project have been addressed in the Final Environmental Impact Report ("FEIR") and Supplemental Environmental Report ("SEIR") No. 142 (SCH No. 1992101159) and no new or additional impacts will result from the Fourth Amendment. The Fourth Amendment does not change the Project but rather only extends the term of the Agreement by two (2) years to account for COVID-19 related impacts nor does it amend any development standards, development requirements, or required mitigation measures identified in FEIR No. 142 and the SEIR.
2. Adopt the Fourth Amendment to Restated Development Agreement No. 5 between the City of Newport Beach and Hoag Memorial Hospital Presbyterian to extend the term of the amended Agreement by two (2) years. Except as modified by this Fourth Amendment, the Planning Commission recommends the amended Agreement remain in full force and effect.

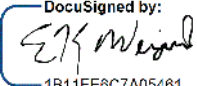
PASSED, APPROVED, AND ADOPTED THIS 9th DAY OF JULY, 2020.

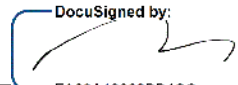
AYES: Klaustermeier, Kleiman, Koetting, Lowrey, Rosene, and Weigand

NOES:

ABSTAIN: Ellmore

ABSENT:

BY: 
Erik Weigand, Chair

BY: 
Lauren Kleiman, Secretary